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learning that M. was not going to L., defendant took the draft to L. himself and cashed it, he exceeded his authority, and violated his duty as bailee, and was liable for the loss of the money, irrespective of any want of due care on his part.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 226.]

2. Bailment (§ 12*)—Gratuitous Bailee Subject to Same Obligations as Others Except as to Degree of Care Required.—Except as to the degree of diligence and care required of him, the general obligation of a gratuitous bailee is the same as if he had assumed the trust upon the promise or with the expectation of reward.

[Ed. Note.—For other cases, see 2 Va.-W. Va. Enc. Dig. 225.]

3. Appeal and Error (§ 1175 (5)*)—Judgment Entered for Plaintiff on Reversal of Judgment for Defendant in Accordance with Uncontroverted Facts.—On reversal of a judgment for defendant, where the facts seem to be fully before the court and are uncontroverted, and entitle plaintiff to final judgment for the amount sued for, the appellate court will enter judgment accordingly.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 628.]

Error to Circuit Court, Amherst County.

Action by the First State Bank of Monroe against Charles Connoley. Judgment for defendant, and plaintiff brings error. Reversed, and judgment entered for plaintiff.

B. B. Campbell, of Lynchburg, for plaintiff in error.

Whitehead & Shroder, of Amherst, for defendant in error.

NORFOLK & W. RY. CO. et al. *v.* ARRINGTON.

Sept. 22, 1921.

[109 Va. 303.]

1. Railroads (§ 5½*) New, Vol. 6A Key-No. Series—Companies Not Liable for Injuries Caused during Federal Control.—The companies owning the railroads are not liable for injuries caused by the operation thereof under the control of the Director General of Railroads.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 562.]

2. Appeal and Error (§ 1173 (1)*)—Erroneous Judgment against Railroad Company Does Not Require Reversal as against Director General.—The fact that a judgment for the death of an employee rendered against both the railroad company and the Director General of Railroads was erroneous as against the company does not affect the liability of the Director General, under Code 1919, § 6365.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 587.]

3. Witnesses (§ 281*)—Cross-Question Should Not Impute to Wit-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

ness a Statement Not Made by Him.—Counsel in cross-examining an adverse witness should not ask a question imputing to the witness a statement which he had not made.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 956.]

4. Appeal and Error (§ 1048 (5*))—Permitting Improper Question Immediately Corrected Held Harmless.—Error in overruling an objection to a question asked defendant's engineer, which imputed to him a statement made by the fireman and not by the engineer, was not prejudicial to defendant, where the witness denied making such statement and the court immediately corrected its ruling and sustained the objection.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 583.]

5. Railroads (§ 390*)—Last Clear Chance Held Applicable to Killing of Licensee.—In an action for the death of licensee working on a railroad grade for an independent contractor, where there was ample evidence that the fireman saw deceased on the track with his back to the train and notified the engineer, but that the engineer took no measures to warn deceased or stop the train until he could see deceased after the engine had rounded a curve and just before it struck deceased, the doctrine of last clear chance was applicable.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 575.]

Error to Circuit Court, Montgomery County.

Action by Cora Arrington, administratrix of the estate of G. C. Arrington, deceased, against the Norfolk & Western Railway Company and Walker D. Hines, Director General of Railroads. Judgment for the plaintiff against both defendants, and they bring error. Reversed and remanded as to the Railway Company, and affirmed as to the Director General.

Jordan, Roop & Sowder, of Christianburg, *F. M. Rivinus*, of Philadelphia, Pa., and *H. J. Phlegar*, of Christianburg, for plaintiffs in error.

Harless & Calhoun, of Christianburg, for defendant in error.

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GARBER *v.* SAUFLEY et al.

Nov. 17, 1921.

[109 Va. 306.]

1. Wills (§§ 524 (6), 601 (1*))—Legatee Held to Take Only Life Estate with Remainder to Descendants.—A will, "I give to E. the balance of my property, * * * her lifetime, and if she should die without leaving an heir, then I want all that I have given her divided into three parts," etc., held to give E. a life estate in the residue, with

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.